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Authority NND 769013

By WMD ED AT INTERNATIONAL ARCHIVES

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PA/HO, Department of State  
E.O. 12958, as amended  
June 22, 2004

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July 22, 1971

TO : L/OSCA - Mr. Malmberg  
FROM : L/ARA - Mark B. Feldman  
SUBJECT : Hijacking - Fulbright Hearings

In Executive Session July 20 the Senate Foreign Relations Committee received testimony from Assistant Secretary Charles Meyer on our hijacking negotiations with Cuba. A copy of that testimony is attached for your information. The principle concern of the Committee on this matter was to understand why the United States Government could not enter into an agreement with Cuba covering all of the crimes enumerated in Cuban Law 1276 as proposed by Cuba. We explained that the Law is not limited to the hijacking of ships and aircraft. It covers a number of other offenses relating to ships and aircraft plus the crime of entry into or departure from Cuba in violation of Cuban regulations. We stated that the United States is not prepared to recognize as criminal conduct departure from Cuba without the consent of Cuban authorities. None of our extradition treaties recognize such a crime. We do not recognize the right of States to confine their population against their will; the right to leave is a recognized human right. Although we noted that the Cuban Law, and our proposal, contemplates exceptions for political asylum, no Senator specifically asked why that exception did not solve our problems.

At one point Senator Fulbright quoted from the DOT testimony in public session and suggested that ratification of the Hague Convention would be meaningless without Cuba and would mislead the American public to believe something was being done about hijacking. I answered that point by stressing: (1) the increasing incidence of hijacking of United States aircraft to countries other than Cuba; (2) the serious foreign policy problems that can arise from the hijacking of non-United States aircraft elsewhere in the world such as the Middle East; (3) and the value of the international consensus against hijacking expressed in the Hague Convention, including the possibility that it might influence Cuban behavior in relation to hijacking.

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From the comments of Senator Fulbright and other Senators it would appear that the Committee will report the Convention with a favorable recommendation, but the Committee report will draw attention to the deficiencies of the Convention. The Chairman also indicated he plans to initiate a resolution calling for a revision of United States Cuban policy. Thus the Committee tactic may be to argue that normalization of relations with Cuba is necessary, inter alia, to achieve Cuban cooperation on hijacking.

CC: ARA/LA - Mr. Hurwitch  
L - Mr. Salans

ARA/CCA - Mr. Funseth  
H - Mr. Leahy

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